



14

## Planning Commission Staff Report

**TO:** PLANNING COMMISSION

**FROM:** SYDNEY BETHEL, PLANNER II *SB*  
(480) 503-6721, SYDNEY.BETHEL@GILBERTAZ.GOV

**THROUGH:** ASHLEE MACDONALD, AICP, PRINCIPAL PLANNER *Am*  
(480) 503-6748, ASHLEE.MACDONALD@GILBERTAZ.GOV

**MEETING DATE:** NOVEMBER 4, 2020

**SUBJECT:** A. UP20-27, SPEEDWAY CONVENIENCE – 24-HOUR OPERATION: A CONDITIONAL USE PERMIT FOR APPROX. 3.9 ACRES GENERALLY LOCATED AT THE SOUTHWEST CORNER OF LINDSAY AND GERMANN ROADS, TO ALLOW INCREASED HOURS OF OPERATION IN THE NEIGHBORHOOD COMMERCIAL (NC) ZONING DISTRICT.

**STRATEGIC INITIATIVE:** Exceptional Built Environment

To allow for the development of a gas station to service the community.

### RECOMMENDED MOTION

Make the Findings of Fact and approve UP20-27, Speedway Convenience- 24-Hour Operation: a Conditional Use Permit for approx. 3.9 acres generally located at the southwest corner of Lindsay and Germann Roads, to allow increased hours of operation in the Neighborhood Commercial (NC) zoning district, subject to conditions.

**APPLICANT**

Company: Hunter Engineering, Inc.  
 Name: Michael Buschbacher II, AICP  
 Address: 10450 N. 74<sup>th</sup> St. #200  
 Scottsdale, AZ 85258  
 Phone: (480) 991-3985  
 Email: mbuschbacher@hunterengineeringpc.com

**OWNER**

Name: Ned Barnes  
 Address: 1332 Main St., Suite 225  
 Columbia, SC 29201  
 Phone: (803) 254-0350  
 Email: ned@croslandbarnesgroup.com

**BACKGROUND/DISCUSSION****History**

<b>Date</b>	<b>Description</b>
<i>February 15, 2005</i>	Town Council adopted Annexation (A04-07), Ordinance No. 1627, annexing 12.47 acres.
<i>February 15, 2005</i>	Town Council adopted Resolution No. 2568 in case GP04-07, reclassifying 6 acres from Residential>2-3.5 DU/Acre to Neighborhood Office (NO).
<i>February 15, 2005</i>	Town Council adopted Ordinance No. 1634 in case Z04-11, rezoning 12.47 acres from Agricultural (AG) and R-43 (County) to Neighborhood Office (NO) and Neighborhood Commercial (NC).
<i>March 9, 2006</i>	Design Review Board approved Lindsay Groves DR05-88, for an office development and future commercial development.
<i>September 2, 2020</i>	Planning Commission heard DR20-94, UP20-26, UP20-27, and UP20-28 for Speedway Convenience Store as a Study Session item.
<i>October 7, 2020</i>	Planning Commission continued DR20-94, UP20-26, UP20-27, and UP20-28 for Speedway Convenience Store to the November 4, 2020 Planning Commission hearing.

**Overview**

The applicant is proposing two (2) stand-alone buildings which are planned to be developed in two (2) phases. Phase I includes a 4,608 sf convenience store and fueling facility which is intended to be a Speedway gas station and the second phase contains a 3,083 sf quick service restaurant with a drive-through. The subject site is located at the southwest corner of Lindsay and Germann Roads and is approximately 3.92 acres. The site was originally a part of a master site plan, Lindsay Groves (DR05-88), which encompassed the site and the office development to the south. The office development to the south, Lindsay Groves Professional Plaza, was constructed around 2008 but the commercial component of the master site plan (subject site) never came to fruition.

The applicant is requesting a Conditional Use Permit (CUP) to allow *24-Hour Operations* in the Neighborhood Commercial (NC) zoning district to continuously operate a gas station with a convenience store and fueling station. A separate Design Review (DR20-94) application has been submitted for the site plan and building design and two (2) additional CUP applications have been submitted to allow a *Fueling Facility* (UP20-26) and *Restaurants*,

*Limited Service* (UP20-28) in the Neighborhood Commercial (NC) zoning district. All four (4) submitted projects for the site are being reviewed concurrently.

#### **Surrounding Land Use & Zoning Designations:**

	<b>Existing Land Use Classification</b>	<b>Existing Zoning</b>	<b>Existing Use</b>
North	Light Industrial (LI)	C-3 (County)	Germann Road then Vacant
South	Neighborhood Commercial (NC)	Neighborhood Commercial (NC)	Lindsay Groves Professional Plaza
East	Residential>3.5-5	Single Family-6 (SF-6) with PAD overlay	Lindsay Road then Central Christian Church
West	Utility/Transportation Corridor (U/TC)	Public Facilities/Institutional (PF/I)	Eastern Canal
Site	Neighborhood Commercial (NC)	Neighborhood Commercial (NC)	Vacant

#### **Project Data Table**

<b>Site Development Regulations</b>	<b>Required per LDC</b>	<b>Proposed</b>
Building Area	-	4,608 sf (Convenience Store) 3,083 sf (Quick Service Restaurant)
Maximum Building Height (ft.)/(Stories)	25'/1 Story	25'-6" (Top of Mechanical Screening) */1 Story
Minimum Building Setback (ft.)		
Front	20'	20'
Side (Street)	15'	15'
Side (Non-residential)	10'	10'
Rear (Non-residential)	15'	15'
Separation Between Buildings (ft.) Single Story	10'	187'
Minimum Required Perimeter Landscape Area (ft.)		
Front	20'	20'
Side (Street)	15'	15'
Side (Non-residential)	10'	10'
Rear (Non-residential)	15'	15'
Landscaping (% of net lot area)	15%	51.86%
Off-Street Parking and Loading	1 space/100sf of convenience retail	<b>46 Spaces Provided</b> (Fueling Facility)

	sales, plus 2 spaces per service bay = <b>46 Spaces  Required</b> 1 space/100sf; plus 1 space/ 400sf of outdoor dining area = <b>31 Spaces  Required</b> <b>77 Spaces Required Total</b>	<b>31 Spaces Provided</b> (Quick Service Restaurant)  <b>77 Spaces Provided Total</b>
--	---	--

*\*LDC4. 102.B Mechanical equipment and enclosures, elevator penthouses, ventilators, and other similar equipment may project up to 5' above the base district height limit.*

## **DISCUSSION**

The request for increased hours of operation is to allow for continuous, or 24-hour, operation for the proposed gas station which includes the convenience store and fueling facility. Increased hours of operation has not been requested for the second pad on the site, which is a proposed fast food restaurant. The proposed gas station is located on the northern portion of the site with the fueling facility located on the northeast portion of the site, parallel to Lindsay Road. The proposed convenience store is approximately 4,608 sf and the intended user is Speedway Convenience Store which is a gas station chain that is primarily located in the Midwest and East Coast regions. There are two (2) proposed access points, the first being off Germann Road on the northwest portion of the site and the second being off Lindsay Road on the southeast portion of the site. There are a total of nine (9) fueling stations that include fueling bays on both sides, providing eighteen (18) one-way fueling bays for the site. The fueling stations are connected by an approximately 180' long fueling canopy that runs parallel to Lindsay Road.

*Per LDC 2.306.A, in the NC District, the hours that a business may be open to the public are limited to between 6:00 a.m. and 11:00 p.m. Increased hours of operation may be permitted with approval of a Conditional Use Permit to ensure that there will be no significant adverse impact on the nearby uses. The NC zoning district is intended to be the least intensive commercial district and has the highest restrictions of the commercial districts to ensure appropriate neighborhood uses develop.*

*A 24-hour service gas station is a typical business model utilized by many existing gas station developments within the Town and with the right mitigation efforts implemented, does not serve as a nuisance in the extended hours between 11:00 p.m. and 6:00 a.m. and provides a service to members of our community who are not on a traditional schedule. Per the applicant's narrative, allowing the use 24-hours daily, provides services during late evening and early morning hours for individuals that work nights, late shifts, swing shifts and other that may be disadvantaged by the lack of late-night essential services. The need for the use is clear, options for 24-hours refueling, and convenience stores are relatively limited in the area and it is important to provide extended hours of use to accommodate all. A plan of operations will be maintained by the store that describes how the site will be managed during the day and during the extended hours of 11:00 p.m. to 6:00 a.m.*

## **FINDINGS**

The Planning Commission is required to make four (4) findings in order to approve a Conditional Use Permit. The findings are listed here, along with the reasons why staff considers that the findings are or are not met in this case. These findings are:

***1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general.***

The subject site is approximately 3.9 acres and located at the hard corner of a major arterial intersection. The site is directly bounded by Germann Road to the north and Lindsay Road to the east. The Eastern Canal is located to the west and the existing Lindsay Groves Profession Plaza is located to the south and shares access with the proposed development. Beyond Germann Road to the north is vacant County land with a General Plan land use designation of Industrial and beyond Lindsay Road is Central Christian Church.

The vacant site is not adjacent to any residential uses and is located at an arterial intersection which is more ideal for an auto-oriented use. The fueling facility has been proposed on the northeast portion of the site, adjacent to Lindsay Road which reduces the possible impacts that may arise for the existing business to the south and for future developments to the north beyond Germann and to the west beyond the canal. To provide further mitigation efforts to the west, the applicant has located a landscaped retention area providing a further physical buffer from the proposed development to future developments. Due to the location of the site and direct access onto major arterials, during the extended hours of operations it should have limited impact on surrounding residents and businesses. As presently proposed, the proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general.

***2. The proposed use conforms to the purposes, intent, and policies of the General Plan and its policies and any applicable area, neighborhood, or other plan adopted by the Town Council.***

The subject site is located on a vacant lot within a previously planned commercial/professional office center. This site has laid vacant for a number of years and has not developed as originally expected in the previously approved master site plan. Infill developments provide a number of unique issues for the applicant as they try to complement the existing surrounding developments while also creating a development that satisfies their needs and expectations. Policy 19 from the General Plan encourages infill development and states as follows, "support infill development that is designed to acknowledge the surrounding context". The subject site is a perfect example of a prime commercial pad that has laid vacant for years and will, when developed, provide a use that will offer a beneficial service for the community.

**3. The proposed use conforms to the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements.**

As conditioned with a valid CUP, the proposed project complies with the Land Development Code standards for the Neighborhood Commercial (NC) zoning district. As depicted in the Project Data Table, the proposed project meets all minimum development standards. The use must adhere to any nuisance laws under the Municipal Code such as, but not limited to, noise and odors. Applicable business and state licenses for operating this facility will be required prior to permitting.

**4. The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.**

The proposed gas station is designed to complement the existing uses within, and adjacent to, the subject site and would not unreasonably interfere with the use and enjoyment of nearby properties. The proposed fueling facility has been located on the northeastern portion of the site to avoid impacting the adjacent neighborhood and the existing commercial developments surrounding the subject site. Adequate access has been provided for the site and ample circulation has been provided internally within the site to avoid potential conflicts from occurring internally and from overflowing onto adjacent properties. The additional traffic volumes should be lower during the extended hours and will have little effect on the adjacent uses. Allowing extended hours of operations for the gas station would not unreasonably interfere with the use and enjoyment of nearby properties. The gas station will have to comply with noise and odor ordinances under the Town of Gilbert Municipal Code.

Pursuant to the above analysis, Staff is of the opinion that the project meets the four (4) findings required for granting the modified Conditional Use Permit.

**PLANNING COMMISSION STUDY SESSION COMMENTS**

The Planning Commission reviewed the project as a Study Session item on September 2, 2020 and had the following comments:

- The Commission was generally supportive of the proposed use and felt that although the Neighborhood Commercial (NC) zoning district is intended for less intensive uses than presently proposed, that this location was an ideal for the uses proposed due to the location at a major arterial intersection, size, and the minimal impacts to residential and neighboring businesses.

**PUBLIC NOTIFICATION AND INPUT**

A notice of public hearing was published in a newspaper of general circulation in the Town, an official notice was posted in all the required public places within the Town and neighborhood notice was provided per the requirements of the Land Development Code Article 5.205.

Staff has received one (1) letter of opposition from the public. The citizen expressed concerns over the increase in vehicular traffic to the immediate area and other adverse impacts associated with auto-centric uses citing an immediate concern about the existing child care facility located to the south of the development in Lindsay Groves Professional Plaza. The

full communication with the concerns detailed from the citizen can be found in Attachment 7.

### **PROPOSITION 207**

An agreement to “Waive Claims for Diminution in Value” pursuant to A.R.S. § 12-1134 was signed by the landowners of the subject site, in conformance with Section 5.201 of the Town of Gilbert Land Development Code. This waiver is located in the case file.

### **STAFF RECOMMENDATION**

Make the Findings of Fact and approve UP20-27, Speedway Convenience- 24-Hour Operation: a Conditional Use Permit for approx. 3.9 acres generally located at the southwest corner of Lindsay and Germann Roads, to allow increased hours of operation in the Neighborhood Commercial (NC) zoning district, subject to conditions:

1. The Project shall be in substantial conformance with the site plan shown on the Exhibits provided under Attachment No. 4.

Respectfully submitted,



Sydney Bethel  
Planner II

### **Attachments and Enclosures:**

- 1) Findings of Fact
- 2) Notice of Public Hearing/Vicinity Map
- 3) Aerial Photo
- 4) Site Plan
- 5) Applicant's Narrative
- 6) Minutes from the Planning Commission Study Session of September 2, 2020
- 7) Correspondence from Citizens

**UP20-27: Speedway Convenience - Fueling Facility  
Attachment 1 - Findings of Fact**

**FINDINGS OF FACT  
UP20-27, Speedway Convenience – 24-Hour Operation**

1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general;
2. The proposed use conforms with the purposes, intent, and policies of the General Plan and its policies and any applicable area, neighborhood, or other plan adopted by the Town Council;
3. The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements; and
4. The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.



# Notice

## UP20-27: Speedway Convenience - 24-Hour Operation Attachment 2 - NOPH

**PLANNING COMMISSION DATE:**

**Wednesday, October 7, 2020\* TIME: 6:00 PM**

**LOCATION:** Due to the impacts of the COVID-19 pandemic, all public meetings will be conducted using measures to protect public health until further notice. Please refer to the meeting agenda for methods of public participation, as permitted under Arizona state law.

**\*Call Planning Division to verify date and time: (480) 503-6721**

\* The application is available to the public for review at the Town of Gilbert Planning Division Monday - Thursday 7AM - 6PM. Staff reports are available prior to the meeting at [www.gilbertaz.gov/departments/development-services/planning/planning-commission](http://www.gilbertaz.gov/departments/development-services/planning/planning-commission) and [www.gilbertdocs.com/gilbertagendaonline](http://www.gilbertdocs.com/gilbertagendaonline).

### REQUESTED ACTION:

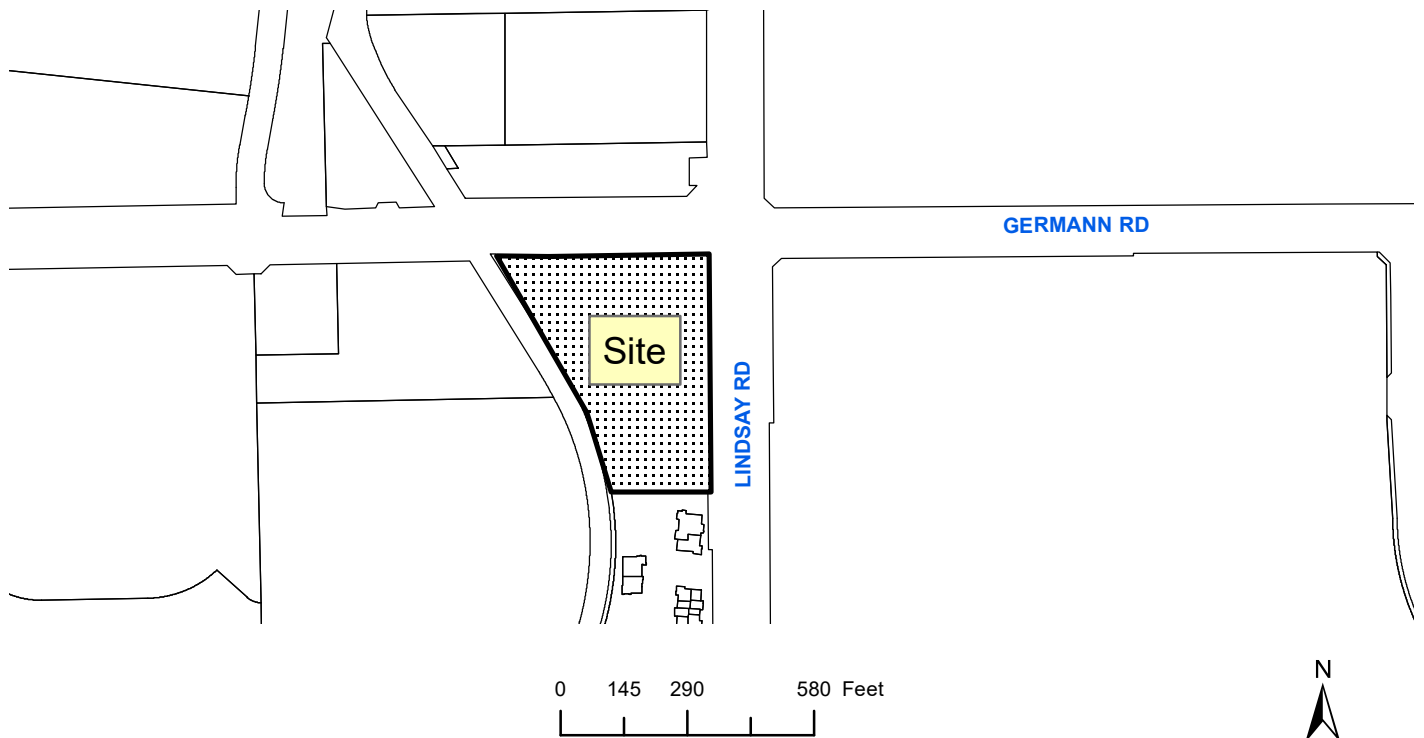
DR20-94 SPEEDWAY CONVENIENCE: Site plan, landscaping, grading and drainage, elevations, floor plans, lighting, and colors and materials for approx. 3.9 acres, generally located at the southwest corner of Lindsay and Germann Roads, and zoned Neighborhood Commercial (NC).

UP20-26 SPEEDWAY CONVENIENCE - FUEL DISPENSING: Request to approve a Conditional Use Permit to allow a Fueling Facility on approx. 3.9 acres generally located at the southwest corner of Lindsay and Germann Roads, and zoned Neighborhood Commercial (NC) zoning district.

UP20-27 SPEEDWAY CONVENIENCE - 24-HOURS OPERATION: Request to approve a Conditional Use Permit to allow increased hours of operation on approx. 3.9 acres generally located at the southwest corner of Lindsay and Germann Roads, and zoned Neighborhood Commercial (NC) zoning district.

UP20-28 SPEEDWAY CONVENIENCE - LIMITED SERVICE RESTAURANT: Request to approve a Conditional Use Permit to allow Restaurants, Limited Service on approx. 3.9 acres generally located at the southwest corner of Lindsay and Germann Roads, and zoned Neighborhood Commercial (NC) zoning district.

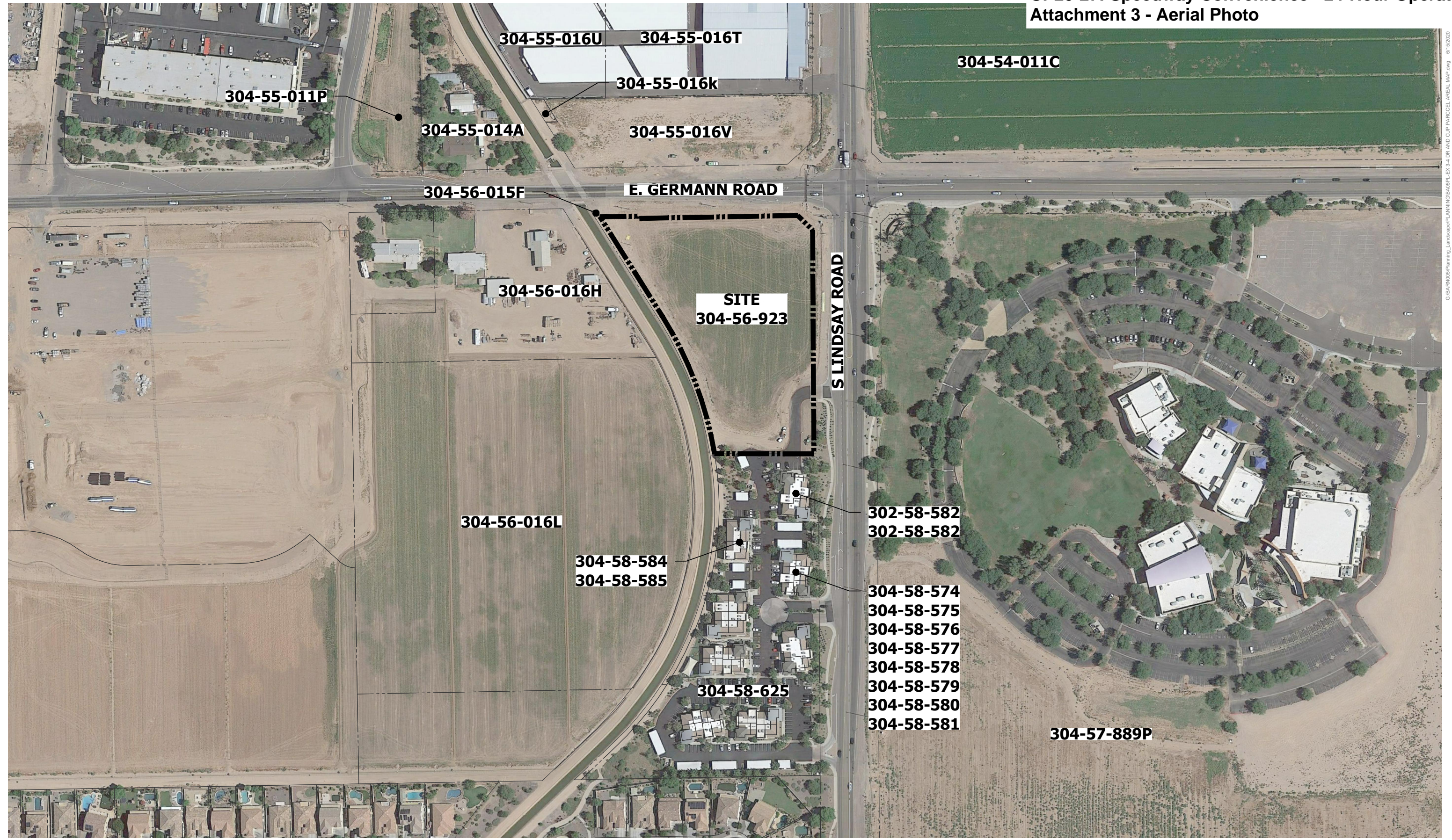
### SITE LOCATION:



**APPLICANT:** Hunter Engineering Inc.  
**CONTACT:** Michael Buschbacher II, AICP  
**ADDRESS:** 10450 N. 74th St., #200  
Scottsdale, AZ 85258


**TELEPHONE:** (480) 991-3985  
**E-MAIL:** [mbuschbacher@hunterengineeringpc.com](mailto:mbuschbacher@hunterengineeringpc.com)





# SPEEDWAY & QUICK SERVICE RESTAURANT

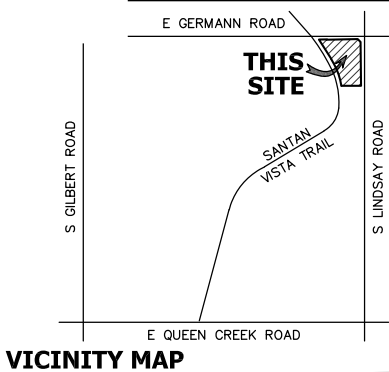
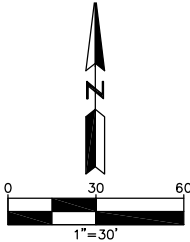
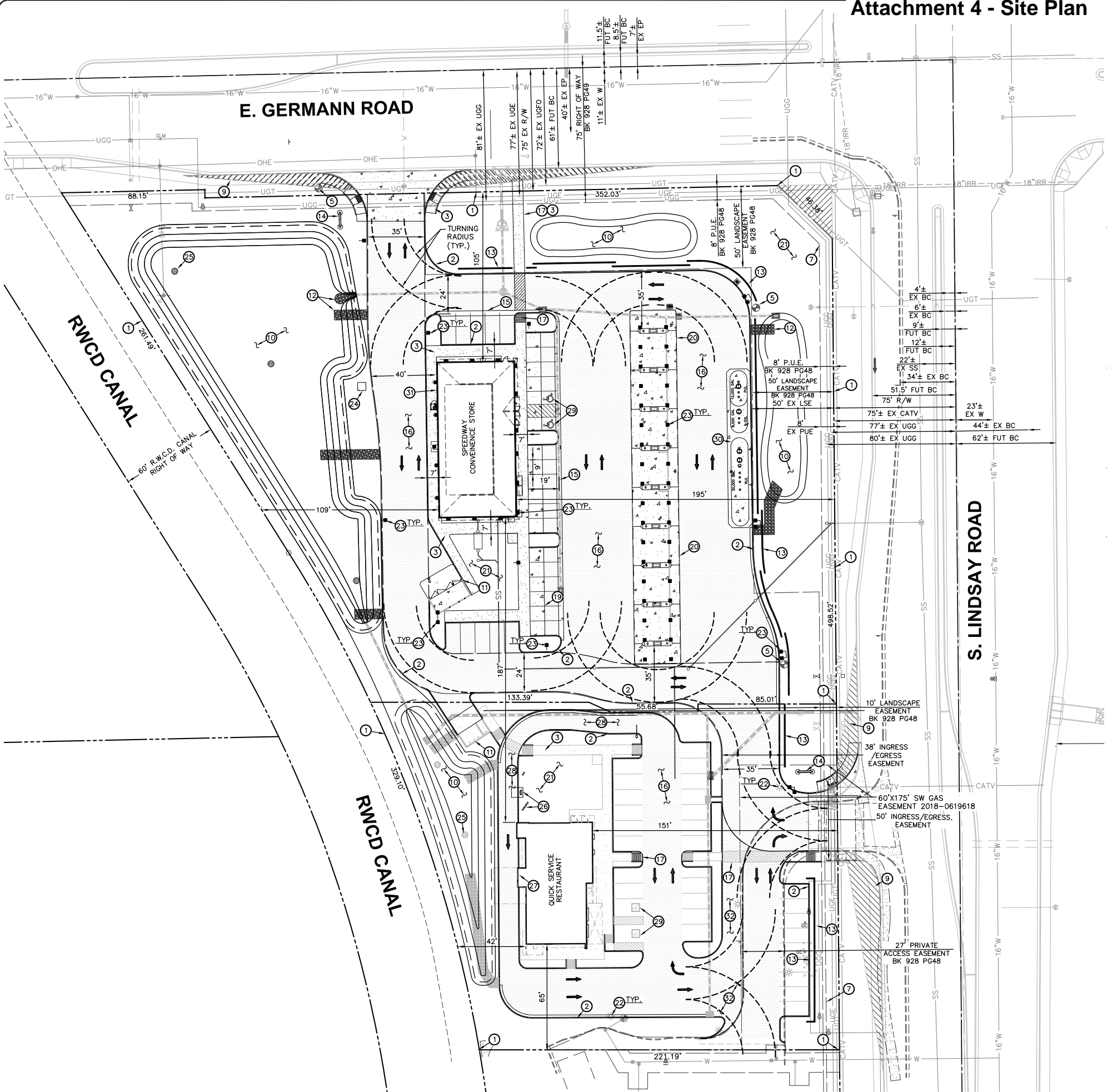
## CONDITIONAL USE PERMIT FUEL - EXHIBIT 4: PARCEL/AERIAL MAP

 0 100 200 Feet  
This plan is for conceptual purposes only  
Not to be used for construction  
6/15/2020  
BA05  
Gilbert, Arizona





UP20-27: Speedway Convenience - 24-Hour Operation  
Attachment 4 - Site Plan



SITE DATA TABLE

PROJECT ADDRESS: NOT YET ASSIGNED		
LEGAL DESCRIPTION: A PORTION OF LOTS 1 OF "REPLAT" OF TRACT C OF STAPLEY" ACCORDING TO BOOK 1148 OF MAPS, PAGE 11, RECORDS OF MARICOPA COUNTY.		
PROJECT DESCRIPTION: PROPOSED SPEEDWAY CONVENIENCE STORE WITH GAS AND QUICK SERVICE RESTAURANT.		
APN: 304-56-923		
SITE AREA (GROSS):	254,479 SQ. FT. (5.84 AC)	
SITE AREA (NET):	170,825 SQ. FT. (3.92 AC)	
EXISTING ZONING:	NC	
PROPOSED ZONING:	NC	
ADJACENT ZONING WEST:	BP & COUNTY	
ADJACENT ZONING SOUTH:	NC	
ADJACENT ZONING EAST:	SF-D	
ADJACENT ZONING NORTH:	COUNTY	

PROPOSED USE

PROPOSED USE: CONVENIENCE STORE WITH GAS	PROPOSED USE: QUICK SERVICE RESTAURANT
CONSTRUCTION TYPE: V-B	CONSTRUCTION TYPE: V-B
OCCUPANCY: 62	OCCUPANCY: UNKNOWN
BUILDING HEIGHT: 22'	BUILDING HEIGHT: UNKNOWN
BUILDING AREA: 4,608 SQ. FT.	BUILDING AREA: 3,083 SQ. FT.
LOT COVERAGE: 3.9%	LOT COVERAGE: 1.8%
MIN. LANDSCAPE: 15%	MIN. LANDSCAPE: 15%

NOTE: QSR WILL SEEK ADMINISTRATIVE DESIGN REVIEW WHEN THE SITE DEVELOPS

PARKING

PARKING (RETAIL SERVICE STATION):	PARKING (QUICK SERVICE RESTAURANT):
SPACES REQUIRED: 46	SPACES REQUIRED: 31
SPACES PROVIDED: 46	SPACES PROVIDED: 31
PARKING RATIO: 1 SPACE PER 100 SQ.FT.	PARKING RATIO: 1 SPACE PER 100 SQ.FT.

SETBACKS

BUILDING SETBACKS(BOTH BUILDINGS):	LANDSCAPE SETBACKS(BOTH BUILDINGS):
FRONT SETBACK: 20'	FRONT SETBACK: 50' ARTERIAL
SIDE SETBACK: 15'	
REAR SETBACK: 15'	

KEYNOTES

- 1 PROPERTY LINE
- 2 CONCRETE CURB
- 3 CONCRETE SIDEWALK
- 4 EASEMENT
- 5 FIRE HYDRANT
- 6 PROPOSED WATER LINE(DOMESTIC)
- 7 PUE
- 8 ROW
- 9 SIGHT LINE TRIANGLE-PER C.O.G. DESIGN STANDARDS, PER FIGURE 212
- 10 RETENTION BASIN
- 11 REFUSE ENCLOSURE
- 12 RIP-RAP DRAINAGE
- 13 SCREEN WALL
- 14 TENANT SIGN
- 15 VALLEY GUTTER
- 16 ASPHALT PAVING
- 17 ACCESSIBLE ROUTE
- 18 EXISTING GAS
- 19 CONCRETE APRON
- 20 FUEL CANOPY
- 21 LANDSCAPE AREA
- 22 EXISTING LIGHT TO BE RELOCATED
- 23 SITE LIGHTING - CREE INC. 15' POLE MOUNTED
- 24 TRANSFORMER
- 25 DRY WELLS
- 26 MENU BOARD & CALL BOX
- 27 DRIVE THRU WINDOW
- 28 DRIVE THRU QUEUING AREA
- 29 ACCESSIBLE PARKING
- 30 UNDERGROUND FUEL TANKS
- 31 FIRE RISER ROOM LOCATION
- 32 CONDITION - TEMPORARY CURBS TO BE REMOVED & DRIVE EXPANDED WHEN Q.S.R. IS DEVELOPED

NO.	DATE	REVISION	BY

DESIGN BY: RJM  
DRAWN BY: RJM  
CHECKED BY: JAO

**HUNTER**  
ENGINEERING  
CIVIL AND SURVEY  
10450 NORTH 74TH STREET, SUITE 200  
SCOTTSDALE, AZ 85258  
T 480 991 3986  
F 480 991 3986



FUEL - CONDITIONAL USE PERMIT  
SPEEDWAY - 101195 & Q.S.R.  
SPEEDWAY - 101195 & Q.S.R.  
763 E. GERMANN RD.  
GILBERT, ARIZONA



THESE PLANS ARE NOT APPROVED FOR CONSTRUCTION WITHOUT AN APPROVED SIGNATURE FROM THE GOVERNING MUNICIPALITY.

PROJECT NAME:  
SPEEDWAY

HE. NO.: BARN005  
SCALE: 1"=30'

SHEET:  
EXH-3

# **Conditional Use Permit**

## **Project Narrative**

### **(Hours of Operation)**

# **Speedway Convenience Store**

**with fuel dispensing**

**SWC Germann and Lindsay  
Gilbert, Arizona**

PREPARED FOR:

**Crosland Barnes Group Inc.**

PREPARED BY  
HUNTER ENGINEERING, INC.  
10450 N. 74<sup>th</sup> STREET, SUITE 200  
SCOTTSDALE, AZ 85258  
(480) 991-3985

June 22<sup>nd</sup>, 2020

H.E. PROJECT NO. BARN005  
GILBERT PRE-APP NO. PPA-2020-000

## **Conditional Use Permit (Hours of Operation)**

### **Site Description & Background**

The proposed project located on the SWC Germann and Lindsay Roads will consist of developing approximately 3.9 acres for a Speedway Convenience Store with Fuel and a Quick Service Restaurant (QSR), such as Burger King. The convenience store will be an approximately 4,600 sf retail building, with nine double sided fuel pumps and associated parking. The Quick Service Restaurant (QSR) will be under 5000 sf with a drive-through service and associated parking. The overall site includes the required drive aisles along with other on-site and off-site infrastructure improvements. Please see the site plan attached to this conditional use permit request.

The site is within the Town of Gilbert and is currently undeveloped farmland. The intersection is ½ mile south of the State Route Loop 202. A road improvement project is planned to start construction this summer for both Germann and Lindsay Roads. The project team is requesting a formal design review of the entire 3.9 acres along with several conditional use permits (CUP) that are planned to run concurrently. This CUP is to allow a change in the hours of operation and is accompanied by a CUP for dispensing fuel. Upon approval of the CUP's and design review the development team will submit development improvement plans for the project and seek approval to begin construction on the Speedway portion of the site. In the NC District the Town currently allows hours of operation from 6am to 11pm. This application would seek to allow 24-hours of operation and shows through our report of the findings that there will be no significant adverse impact on the nearby uses.

### **Approval Requirements**

Approval for a Conditional Use Permit must meet the following findings. First, that the proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general. Second, the proposed use conforms with the purposes, intent, and policies of the General Plan and its policies and any applicable area, neighborhood, or other plan adopted by the Town Council. Third, the proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements. And finally, the proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.

**Finding #1: The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general.**

The vacant site is not adjacent to any residential uses and is bound by two arterial roads and a canal on the west project boundary. The proposed use is common in neighborhoods such as this one and an extension of hours does not pose significant risk compared to other 24-hours uses. The use of a 24-hour convenience store with fuel is typical. Operating 24-hours a day will not have a significant impact on noise, smoke, odor, dust, or vibration. Illumination however will need to occur throughout the evening past 11pm until dawn. It is important to provide outdoor lighting for safety and personal security. Exterior lighting will comply with the requirements of the Town of Gilbert's Commercial Design Guidelines section 4.103 and Chapter 42 section 42-34 of the Code of Gilbert. This will be to ensure that glare is minimized, light trespass control techniques are in place and spill light is minimized into the nighttime sky.

**Finding #2: The proposed use conforms with the purposes, intent, and policies of the General Plan and any applicable area, neighborhood, or other plan adopted by the Town Council.**

Since the general plan designation specifically allows for this use, we feel our plan is a good fit for this area. The proposed use conforms with the purposes, intent, and policies of the General Plan. This use requires the ability for the business to operate 24-hours and to provide services as demanded for customers anytime throughout the night and early morning hours. When the property was annexed into Gilbert, the General Plan was amended to Neighborhood Office and Neighborhood Commercial. The intended use has been planned for this area since its annexation over 15 years ago. Allowing the use 24-hours daily, provides services during late evening and early morning hours for individuals that work nights, late shifts, swing shifts and other that may be disadvantaged by the lack of late-night essential services. The need for the use is clear, options for 24-hours refueling, and convenience stores are relatively limited in the area and it is important to provide extended hours of use to accommodate all. There are no other adopted area plans for the site. A plan of operations will be maintained by the store that describes how the site will be managed during the day and during the extended hours of 11pm to 6am.

**Finding #3: The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements.**

Zoning case Z04-11 rezoned the property to Neighborhood Office (NO) and Neighborhood Commercial (NC). The existing Neighborhood Commercial (NC) zoning designation permits the use of Convenience Store with Fuel and is therefore in compliance with the designated zoning district. In 2006, design review case DR05-88, approved Lindsay Groves for an office and commercial development. This project will comply with the approved DR05-88 for a convenience store and fast food restaurant. The project will conform to Town of Gilbert, County, State or Federal laws that govern the 24-hour daily use commercial convenience store facilities.

**Finding #4: The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.**

The 24-hour use of the proposed gas station is reasonably compatible with surrounding uses, which include farming, church, office, storage, personal care services and some distant single-family residential homes to the south. Traffic is focused towards the site and will be either southbound or eastbound as traffic exits the site. The additional traffic volumes should be lower during the extended hours and will have little effect on the adjacent uses. In addition, a road widening project starting summer of 2020, will allow for increased capacity on both arterial roads. Access to the offices south will continue as currently allowed and will continue to provide circulation independent of the commercial site. The existing surrounding uses will most likely continue with little interference from the use of the site during the extended hours from 11pm to 6am. In fact, the site will be more readily available for nearby, late night and early morning users. The number of customers during this time period is usually significantly lower during the earliest hours of the morning, so there will be a lower than normal use during this extended time period. This will provide additional resource for the neighborhood, which should increase convenience and availability of these services to nearby residents.

**Conclusion**

Our team has spent a significant time during the past months researching the use of operating 24-hours per day and determining the compatibility of such a use for this site. Understanding the infrastructure requirements, such as lighting, helps to ensure that 24-hours of convenience store operations are not a hinderance or detriment to the neighborhood, but rather a valued and much needed resource for the area. The developer of this project is sincerely excited about this property and believes that the project will add value for the neighborhood. Our team looks forward to working with Town staff for the duration of the project to accomplish our combined efforts to improve the site and create a better place for the Towns employees, residents, visitors and guests. Thank you for taking time to review this conditional use permit to allow 24-hour operations of a convenience store on the property. Pursuant to the above analysis, it is our opinion that the project meets the four findings required for the granting of the Conditional Use Permit.



**UP20-27: Speedway Convenience - 24-Hour Operation  
Attachment 6 - Minutes from the Planning  
Commission Study Session of September 2, 2020**

~~not an architect. He thought it could use some reworking but would defer to his architectural peers for guidance.~~

~~Chair Andersen liked the design with so many variations in materials and colors. He did not believe any of it would be replicated on this development. Overall, he thought the designs were nicely done. He asked if there was enough input on the tower elements and transition of brick to board and batten.~~

~~Ms. Bubenheim advised that one Commissioner had commented on the board and batten for the Edmonds elevation. She appreciated the comments. As these are standard plans, they can be approved administratively by staff. They will move forward with addressing the Commission and staff comments before approving the plans in house.~~

**3. UP20-26 SPEEDWAY CONVENIENCE - FUEL DISPENSING: Request to approve a Conditional Use Permit for approx. 3.9 acres located at the southwest corner of Lindsay and Germann Roads, and zoned Neighborhood Commercial (NC) zoning district.**

**UP20-27 SPEEDWAY CONVENIENCE - 24-HOURS OPERATION: Request to approve a Conditional Use Permit for approx. 3.9 acres located at the southwest corner of Lindsay and Germann Roads, and zoned Neighborhood Commercial (NC) zoning district.**

**UP20-28 SPEEDWAY CONVENIENCE - LIMITED SERVICE RESTAURANT: Request to approve a Conditional Use Permit for approx. 3.9 acres located at the southwest corner of Lindsay and Germann Roads, and zoned Neighborhood Commercial (NC) zoning district.**

**DR20-94 SPEEDWAY CONVENIENCE: Site plan, landscaping, grading and drainage, elevations, floor plans, lighting, and colors and materials for approximately 3.9 acres, generally located at the southwest corner of Lindsay and Germann Roads, and zoned Neighborhood Commercial (NC).**

Planner Sydney Bethel presented the Speedway Convenience Design Review combined with three Conditional Use Permits on the same project. The site is located at the southwest corner of Lindsay and Germann Roads and is approximately 3.92 acres. The site was originally part of the master site plan for Lindsay Groves Professional Plaza which encompassed the site and the office development to the south, which was constructed around 2008 although the commercial component never came to fruition. The Design Review for Speedway Convenience Store includes two buildings, one new 4,608 SF gas station, and a future 3,000 SF fast-food restaurant. Conditional Use Permits (CUP) are being requested to allow fuel dispensing, 24-hour continuous operations for the gas station, and limited-service restaurant in the Neighborhood Commercial (NC) zoning. Hours of operation in NC are limited to 6 am to 11 pm. Staff is requesting input on the general site design, elevations, and the requested Conditional Use Permits.

The applicant is proposing to develop the site in two phases. The first phase is the 4,600 SF convenience store, fueling canopies, as well as the major site improvements including the perimeter and street frontage landscaping, access drives, internal drive aisles, and parking for the gas station. Phase 2 will be the future quick-service restaurant which the applicant indicated may be something such as a Burger King with a drive-through. The improvements associated with that pad include adjacent parking and

landscaping. There are two points of access proposed off of Germann Road to the north and Lindsay Road to the west, which is currently existing and is utilized by the existing office development to the south. That will continue as a shared access with that development to the south. Pedestrian connections are proposed to the north leading to the Germann right-of-way and to the west at the Lindsay right-of-way. The proposed landscaping covers a total of 34.9% of the net area, which exceeds the requirement of 15% for the site. The majority of the landscaping will be completed with Phase 1 including the perimeter and street frontage landscaping along with foundation and parking lot landscaping for the gas station. The landscape plan reflects a natural desert palette that is similar to existing developments within the area. The primary building material is stucco in a tan color called French Toast. Accent materials include metal in a bronze finish and fiber cement panel in a gray finish called Vintage Ash.

The elevations provided are only for the Phase 1 gas station. The elevations for the quick-service restaurant will be included in Phase 2, which will come in with a separate Administrative Design Review at a later date. The gas station building is proposed at approximately 23'-6" in height. The base of the building includes stucco in the tan color with cement fiber board utilized as a modern arch projecting above the roofline on the east and north elevations. The metal in bronze is primarily used as an accent material on the top of the building as well as screening for the mechanical equipment. Staff has recommended additional cement fiber board to enhance the rear elevation as well as changing the colors and materials on the proposed fuel canopy on the east elevation to better match the buildings.

Since the Staff Report, the applicant has submitted for a second review earlier in the week. The primary changes were to the west elevation where they internalized the external downspouts and the exposed stairwell and provided a column accent pop-out feature. Staff has not yet fully reviewed this second submittal.

## **COMMISSION QUESTIONS/COMMENTS**

### Use Permit Comments

Vice Chair Bloomfield noted we generally do not see this many Conditional Use Permits being requested on a site. He wondered if a different zoning category would allow this by right and they just didn't want to go through the rezoning process.

Ms. Bethel advised that this zoning district is Neighborhood Commercial which is our smallest commercial zoning district and is intended for smaller more neighborhood commercial type uses. In other commercial zoning districts, these requested uses are allowed by right. Typically, staff does not support high-volume uses in this type of zoning to protect the residential uses. However, this site is in a more ideal location at an arterial intersection and the adjacent surrounding uses are not primarily residential.

Vice Chair Bloomfield felt rather than rezone, the applicant chose to keep it this way and give the neighbors more comfort that they are adhering to this and if not, they have a recourse.

Ms. Bethel stated there is a process for the revocation of a Use Permit if issues were to arise. That is not seen very often but it is an option if they were to come out of compliance with the four Findings of Fact that are required for Use Permits.

Vice Chair Bloomfield did not see a problem with it and appreciated the explanation.

Commissioner Cavenee felt if there was a Neighborhood Commercial site that was compatible with this use, this would be it without any real impact to any residential nearby. Even the church property across the

street is buffered heavily by landscaping and there is commercial to the south. He felt a 24-hour operation should be fine here and he did not see that it would impact anyone negatively.

Chair Andersen confirmed that the Commission was in support of all three Use Permits for the fuel dispensing, 24-hour operation, and limited service restaurant.

#### Design Review Comments

Commissioner Cavenee stated his first impression looking at the elevations was the same as staff with regard to the canopy being unrelated to the building, materials, colors, and finishes. For a fuel station, where it is located is probably fine. He was a little troubled by the rear elevation as it is so plain, although we have the canal and there is not any residential that would see it. He had a hard time justifying being hard on the rear or east elevation being just a plain wall with downspouts. He was glad staff had them add a little accent on the front. He was a little worried how the fiber cement panel in gray would relate to the French Toast tan color. If there were anything else that could be done to improve the articulation on the building, that would be great, although he understood it is a fuel station so he hesitated to be hard on them.

Chair Andersen agreed with those comments and supported the staff suggestions on the design.

Commissioner Mundt asked if staff felt the second submittal fully qualified their questions related to the fueling canopy. It did not appear that there were any alterations.

Ms. Bethel stated they did not change the canopy as far as she could see, although Staff has not had the opportunity to fully delve into the second submittal. In staff's second review, she will continue to make that comment to see some relation to the building and see what the applicant can provide.

**4. GP20-02 POWER COMMERCE CENTER GP: Request for Minor General Plan Amendment to change the land use classification of approx. 9.6 acres generally located north of the northwest corner of Power and Elliot Roads, from Business Park (BP) to Light Industrial (LI). The effect of this amendment will be to change the plan of development to allow for a small industrial park.**

**Z20-06 POWER COMMERCE CENTER: Request to amend Ordinance No. 2623 to rezone approx. 9.6 acres within the Morrison Ranch Business Center Planned Area Development overlay zoning district (PAD) and generally located north of the northwest corner of Power and Elliot Roads from approx. 174.1 acres of Business Park (BP), 84 acres of Light Industrial (LI), and 118.2 acres of General Commercial (GC), all with a PAD to approx. 164.5 acres of Business Park (BP), 93.6 acres of Light Industrial (LI), and 118.2 acres of General Commercial (GC), all with a PAD as shown on the exhibit (map) available for viewing in the Planning and Services Division, all subject to the conditions of development set forth in the prior ordinances.**

**DR20-97 POWER COMMERCE CENTER: Site plan, landscaping, grading and drainage, elevations, floor plans, lighting, and colors and materials for approximately 14.7 acres, generally located north of the northwest corner of Power and Elliot Roads, and zoned Business Park (BP) and Light Industrial (LI) with a planned area development (PAD).**

Planner Josh Rogers presented Power Commerce Center Minor General Plan Amendment and zoning

# UP20-27: Speedway Convenience - 24-Hour Operation Attachment 7 - Correspondence from Citizens

**Sydney Bethel**

---

**From:** [REDACTED]  
**Sent:** Friday, September 25, 2020 10:06 AM  
**To:** Sydney Bethel  
**Subject:** Speedway (DR20-94, UP20-26, UP20-27, UP20-28)

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello Sydney,

I am writing to you with concerns about the proposed development of a Speedway service station on the SWC of Germann & Lindsay. I live nearby in the Eagle Glen II neighborhood and have been a resident of Gilbert since 2009. I love our town and have enjoyed the growth of Gilbert that we have been a part of over the last 10+ years. Unfortunately, I have growing concerns that the Town Council continues to make developmental decisions that seem to disregard the health and safety of the established neighborhoods and citizens in regards to my home area of Gilbert.

This service station proposal is one that I hope can be reevaluated as the placement is not favorable for my neighborhood, nearby traffic, or the health and safety of my children. I have two daughters who attend a child care center in Lindsay Groves Professional Plaza, directly south of this proposed service station. Adding this Speedway gas station would increase vehicular traffic in and around the Lindsay Groves Professional Plaza, increase potential foot traffic and loitering in and around the Professional Plaza, and increase the risk of environmental hazards and pollutants due to the proximity of this proposal to my neighborhood and child care center.

Please consider this email while evaluating the planned proposal of this Speedway service center. I believe that I speak for many that live near the Germann and Lindsay intersection that this type of development is not what we had expected near our homes when we moved into Gilbert. There are many other nearby options for gasoline and other available development opportunities that would be more considerate to the Gilbert citizens who live nearby this intersection.

--

Regards,

Beau Riley

[REDACTED]